IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 570 of 2000

Date of decision 12.10.2007

State of Himachal Pradesh **..Appellant**

Versus

Kamal Lal **..Respondent**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1] NO

For the Appellant: Mr. J.S.Guleria, Law Officer

For the Respondent: Mr. R.K.Gautam, Senior Advocate, with Mr. Naveen Bhardwaj, Advocate

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Deepak Gupta, J. (Oral)

This appeal by the State is directed against the judgment of learned Chief Judicial Magistrate, Kinnaur district at Reckong Peo in Criminal Case No. 6/2 of 1997, decided on 30.6.1999 whereby he has acquitted the accused of having committed an offence punishable under Sections 279/337/338/304-A IPC.

The prosecution case in brief is that on 14.10.1996 the accused was driver of bus No. HP-06-

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

2025. This bus had taken the employees, who were working on the H.P.S.E.B. Project at Bhawanagar, from the colony and was gong towards Nathpa. The bus in question was admittedly being driven by Kamal Lal. When the bus reached near State Bank of India, Bhawanagar, the bus driver tried to reverse the bus and while reversing the bus he hit the parapet. The bus went off the road, rolled down the khud and while rolling down, it struck against Block No. 23 of the Colony causing death of one Ramesh Chand.

The factum of the accident or the fact that the accused was driving the bus is not denied by the accused. However, the case set-up by him is that when he reached near the State Bank of India, Bhawanagar, another bus came from the opposite side. He was reversing the bus and while reversing the bus due to error of judgment, it went off the road and rolled down. The prosecution examined a large number of witnesses. All the eye witnesses who have been examined have stated that the accused was reversing the bus because there was no space for two buses to cross each other and, therefore, one of the buses had to be reversed and the accused was reversing the bus and during this process,

the accident took place. The prosecution had laid much stress on the fact that PW-19 in his statement had stated that there was no conductor in the bus.

Even assuming for the sake of argument that the conductor was not there, then also it cannot be said that this amounts to rash and negligent driving. No witness has stated that the bus was being driven rashly. From the facts on record it is apparent that the accused was not driving the bus at a high speed. He was reversing the bus and while reversing it, due to error of judgment, it hit the parapet and fell down. The learned trial court has rightly acquitted the accused. The judgment calls for no interference. The appeal is dismissed. The bail bonds of accused are discharged.

October 12, 2007(K) (Deepak Gupta), J.